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11772

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: SAKAI 6

In re Application of:) Conf. No. 3454
SAKAI et al.)
Appln. No.: 09/747,925) Examiner:
Filed: 28 December 2000) Washington, D.C.
For: COPPER ALLOY SLIDING ...) July 17, 2003
)
) Attn: PETITIONS

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PETITION TO VACATE HOLDING OF ABANDONMENT¹

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202

Sir:

Applicant is in receipt of the Notice of Abandonment,
mailed May 15, 2003², which **erroneously** states that the
application is abandoned because of applicant's alleged
failure to file a response within the time period established
by the Notice of Incomplete Reply mailed July 18, 2001.

It is respectfully requested that such Notice of
Abandonment be vacated as being erroneous and that the present
application be reinstated.

¹ If a fee must be charged, please charge same to Deposit Account No. 02-4035, and then refund said fee as the holding of abandonment is erroneous and is entirely the fault of the PTO.

² Since receiving this Notice, several attempts have been made to contact the PTO by telephone regarding said Notice. However, as of today's date no oral reply from the PTO personnel called has been received.

THE FACTS

The complete utility application (specification, claims, drawings, fee and **declaration/power of attorney**) was filed on December 28, 2000.

On February 20, 2001, the undersigned received a Notice to File Missing Parts of Nonprovisional Application, dated February 12, 2001. Said Notice indicated that the oath or declaration was missing.

In response to said Notice, the undersigned filed a Request to Vacate Re Notice to File Missing Parts of Nonprovisional Application, on April 12, 2001. The attachments to said Request were a copy of the declaration/power of attorney as originally filed and the date stamped receipt postcard from the original filing of December 28, 2000.

In response to said Request, the undersigned received a Notice of Incomplete Reply (Nonprovisional), dated July 18, 2001, which once again indicated that the oath or declaration was missing.

Applicant then timely and properly responded within the time period established by the Notice mailed July 18, 2001, by filing a Request to Vacate Notice of Incomplete Reply (Non Provisional) on August 13, 2001. Said Request of August 13, 2001, included copies of (1) the previously filed Request to

Vacate Re Notice to File Missing Parts of Nonprovisional Application filed on April 12, 2001, (2) the originally filed declaration/power of attorney, (3) a photocopy of the postcard receipt of the original filing of December 28, 2000, indicating that the declaration/power of attorney was attached and received by the PTO, and (4) a photocopy of the receipt postcard dated April 12, 2001.

It has recently come to the attention of the undersigned that both the April 12, 2001, and August 13, 2001, Requests contained a clerical error in the serial number of the application (the first page of each document incorrectly identified the application as 09/749,701). However, all other references to the present application within the Requests, including (1) the copies of the PTO documents, (2) the additional pages of the request and (3) the return postcard for the Request of April 12, 2001, correctly identify the present application³.

As evidence that such Requests were timely and properly filed on April 12, 2001, and August 13, 2001, attached hereto are xerographic copies of the return postcards date-stamped by the PTO Mail Room as having been timely received by the PTO on April 12, 2001, and August 13, 2001. However, the receipt

³ It is respectfully noted that even with this error the PTO was able to match the original April 12, 2001, Request with the correct file and subsequently issue the Notice of Incomplete Reply on July 18, 2001, see MPEP 502 and 508, part II.

postcard for the August 13, 2001, submission also incorrectly identifies the application number as 09/749,701. Also attached are freshly re-signed duplicate copies of the documents of April 12, 2001, and August 13, 2001, with related papers.

REMARKS

In view of the above evidence, it is clear that the Requests to Vacate were timely and properly filed within the time periods established by the Notices and that the Notice of Abandonment has been issued in error. Indeed, the postcards by themselves should be sufficient, as MPEP Section 503 states:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt of the PTO of all items listed there on the date stamped thereon by the PTO.

It is accordingly requested that the Notice of Abandonment be vacated and the present application be reinstated.

It is also respectfully requested that the PTO withdraw (vacate) the two erroneous Notices dated February 12, 2001, and July 18, 2001, and forward the application for processing and examination.

As it is believed that the original Notices were issued erroneously (the declaration having been filed with the

application), which in turn caused the Notice of Abandonment to be issued, the undersigned believes that there are no fees to be paid at this time.

However, in the event that fees are required, please charge them to the deposit account of the undersigned (DA 02-4035).

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By



Sheridan Neimark

Registration No. 20,520

SN:edg

Telephone No.: (202) 628-5197

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/747,925	12/27/2000	Kenji Sakai	SAKA16

001444
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303



CONFIRMATION NO. 3454
ABANDONMENT/TERMINATION
LETTER



OC000000010043541

Date Mailed: 05/15/2003

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 07/18/2001.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

*A copy of this notice **MUST** be returned with the reply.*

C. M. Haywood
Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE





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FILED: December 27, 2000

APPLICANT(S): Kenji YAKAI, et al.

THE PATENT AND TRADEMARK OFFICE STAMP HEREON
ACKNOWLEDGES RECEIPT OF THE ABOVE-IDENTIFIED
APPLICATION, INCLUDING THE FOLLOWING PAPERS:

FEES \$ 710.00 (PTO # 2038)

NEW APPLICATION TRANSMITTAL LETTER

- ORIGINAL NON-PROVISIONAL UTILITY
- CONTINUATION-IN-PART (37 CFR §1.53(b))
- CONTINUATION (37 CFR §1.53(b))
- DIVISIONAL (37 CFR §1.53(b))
- DESIGN
- PLANT
- PROVISIONAL

SPECIFICATION AND CLAIMS (25 pages)

DRAWINGS (6 sheets; 1-6 figures)

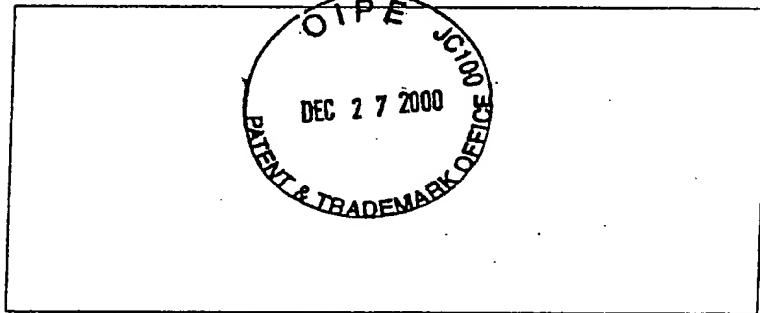
SEQUENCE LISTING WITH DISK

DECLARATION (2 pages)

SMALL ENTITY STATEMENT(S) (_____ pages)

DOCKET NO.: YAKAI 5

[PARENT CASE: _____]



INFORMATION DISCLOSURE STATEMENT (_____ pages)

FORM 1449 (_____ pages)

_____ PATENTS AND/OR PRINTED PUBLICATIONS

PRELIMINARY AMENDMENT

SUPPLEMENTAL PRELIMINARY AMENDMENT

OTHER AMENDMENT

1 PRIORITY DOCUMENT(S) NO. 2000-053799

OTHER _____



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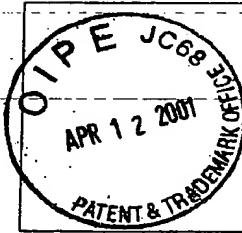
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APPLICANT(S): SAKAI (ASAM)
APPLICATION NO: 09/747,925

DOCKET NO.: SAKAI 6
CONF. NO: 3454

THE PATENT AND TRADEMARK OFFICE STAMP
HEREON ACKNOWLEDGES RECEIPT OF THE
FOLLOWING PAPERS:

- FEES \$ _____
 - PTO FORM 2038
 - (CH. # _____)
- EXTENSION OF TIME (_____ MONTHS)
- TRANSMITTAL LETTER
- MISSING PARTS RESPONSE WITH DECL
- AMENDMENT
- PRELIMINARY SUPPLEMENTAL
- REPLY TO OFFICE ACTION
- RESTRICTION/ELECTION REPLY
- SEQUENCE LISTING WITH DISK
- RCE / CPA TRANSMITTAL (circle one)
- NOTICE OF APPEAL
- APPEAL BRIEF (TRIPPLICATE)
- REPLY BRIEF (TRIPPLICATE)
- OTHER



- ASSIGNMENT
- INFORMATION DISCLOSURE STATEMENT
 - FORM 1449 & _____ PATENTS/PUBS
- PRIORITY DOCUMENT(S) NO. _____
- DECLARATION UNDER § _____
- LETTER TO DRAFTSMAN
 - _____ SHEETS OF DRAWINGS
- ISSUE FEE TRANSMITTAL FORM
- MAINTENANCE FEE LETTER

B&N-2

*Re: to Vacate Notice to File Missing Parts, copy of do a
copy of patent and receipt*



JUL 17 2003

APPLICANT(S): SAKAI et al. APPLICATION NO.: 09/749,461

THE PATENT AND TRADEMARK OFFICE STAMP
HEREON ACKNOWLEDGES RECEIPT OF THE
FOLLOWING PAPERS.

DOCKET NO.: SPICA 14
CONF. NO.: _____

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A circular library stamp. The outer ring contains the text "O I P E" at the top and "OFFICE" at the bottom. The inner circle contains the date "AUG 13 2001" in the center. At the top of the inner circle is the catalog number "JC174". At the bottom right of the inner circle is the word "PATE".

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